

APR 08 2004  
OFFICIAL

## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:  
Sonja Eijsbouts

Docket: ACH 2779US

Serial No.: 09/829,625  
Filing Date: April 10, 2001

Group Art Unit: 1754  
Examiner: Cam Nguyen

For: PROCESS FOR ACTIVATING A CATALYST  
CONTAINING AN S-CONTAINING  
ADDITIVE

Mail Stop AF  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

## RESPONSE TO INTERVIEW SUMMARY

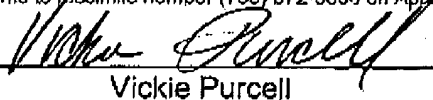
Sir,

This is in response to an interview Summary mailed on April 7, 2004 concerning a telephone interview between Examiner Cam N. Nguyen and the undersigned attorney concerning instant claim 31 which stands rejected under 35 USC 102(b)/103.

Examiner stated in her opinion that Attorney urged that the catalyst of claim 31 is obtained by a new and unique process, therefore, the catalyst should be patentable over the prior art. Examiner's statement is incorrect. In fact, Attorney urged that the catalyst of claim 31 is patentable because it is a novel composition by virtue of its novel properties.

## CERTIFICATE OF FACSIMILE

I hereby certify that the attached Response To Interview Summary is being facsimile transmitted to the Commissioner for Patents to facsimile number (703) 872-9306 on April 8, 2004:

  
Vickie Purcell

ACH 2779US

Attorney explained that the composition of the catalyst of claim 31 is readily distinguishable from the prior art compositions. It is made clear in the examples of the instant text that catalyst activated in accordance with the instant process shows surprising and unexpected improved activity with regard to hydrodesulfurization, hydrodenitrogenation and hydrodearomatization. It is well established law that a compound and all of its properties are inseparable (*In re Papesch*, 137USPQ 43, 51), and, therefore, the improved activity of the catalyst of the invention is as an essential part of the catalyst composition as any other aspect of the composition, such as metals content, thereby imparting novelty and unobviousness.

Attorney pointed out that the examples of the instant text served to compare the catalyst of the present invention, i.e. catalyst prepared by a novel activation procedure, with the closest possible prior art, which is catalyst identical in every respect, except prepared in a manner not including such novel activation procedure.

Attorney explained that the case law cited by Examiner serves to support Attorney's position. Cases such as *In re Thorpe*, 227 USPQ 964, *In re Brown*, 173 USPQ 688 and *In re Fessman*, 180USPQ 324 stand for the principle that in product by process claims, the product produced must be shown to in fact differ from the products known in the art. Attorney understands and agrees with this principle.

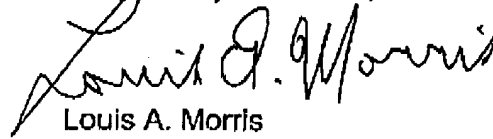
Attorney pointed out in the interview with Examiner, that the catalyst of claim 31 has been shown to differ from the product of the closest prior art via surprising and unexpected comparative data, and is therefore novel and unobvious.

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Amended claims in which claim 31 was re-written in independent form, as requested by Examiner, have been previously provided.

All grounds for objection to and rejection of any of the instant claims have been obviated. Allowance of all of the instant claims is respectfully requested.

Respectfully submitted,



Louis A. Morris  
Attorney for Applicant(s)  
Reg. No. 28,100

Akzo Nobel Inc.  
Intellectual Property Department  
7 Livingstone Avenue  
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**TRANSMITTAL LETTER****RECEIVED  
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In re Application of:  
EIJSBOUTS, S. et al.

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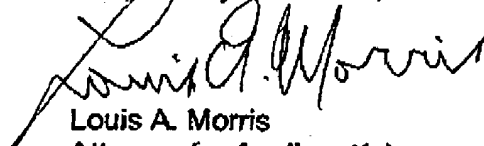
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☒ Transmitted herewith is a responsive document(s) for this application.  
**TRANSMITTAL LETTER IN DUPLICATE; RESPONSE TO INTERVIEW SUMMARY;  
and CERTIFICATE OF FACSIMILE.**

The total fee believed due is \$00.00. Please charge this amount and any other fees which may be due (including filing fees under 37 CFR 1.16 and processing fees under 37 CFR 1.17) to Deposit Account No. 01-1350. If an extension of time is required but has not been requested above, Applicant hereby petitions for an extension of time sufficient for the attached document(s) to be timely. A duplicate copy of this sheet is enclosed.

Respectfully submitted,



Louis A. Morris  
Attorney for Applicant(s)  
Reg. No. 28,100

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Vickie Purcell